

HOUSE BILL No. 1717

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-9-2; IC 31-14; IC 31-15-6-1.5; IC 31-17; IC 31-33-8.

Synopsis: Child abuse and neglect. Provides that in a proceeding for dissolution of marriage, for legal separation, or involving custody or visitation issues: (1) a court must advise a parent, custodian, or guardian that the parent, custodian, or guardian may request the court to appoint a guardian ad litem or special advocate if there has been a substantiated report of abuse or neglect of a child by a parent, custodian, or guardian and criminal charges were not filed and a child in need of services petition was not filed or was dismissed; (2) the court must appoint a guardian ad litem or special advocate upon request from the parent, custodian, or guardian; and (3) the court and a guardian ad litem or special advocate, or both, may have access to reports and examinations relevant to a substantiated report of abuse or neglect of a child. Provides that upon request and if a guardian ad litem or special advocate finds visitation is not in the best interests of the child, a court must hold a hearing to determine whether an order granting visitation should be modified.

Effective: July 1, 2005.

Ripley

January 25, 2005, read first time and referred to Committee on Judiciary.

C
o
p
y



Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1717

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-9-2-28 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. "Court appointed
3 special advocate", for purposes of **IC 31-14-10, IC 31-14-14,**
4 **IC 31-15-6, IC 31-17-4,** IC 31-17-6, IC 31-19-16, IC 31-19-16.5, and
5 the juvenile law, means a community volunteer who:

- 6 (1) has completed a training program approved by the court;
7 (2) has been appointed by a court to represent and protect the best
8 interests of a child; and
9 (3) may research, examine, advocate, facilitate, and monitor a
10 child's situation.

11 SECTION 2. IC 31-9-2-50 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 50. "Guardian ad
13 litem", for purposes of **IC 31-14-10, IC 31-14-14, IC 31-15-6,**
14 ~~IC 31-16-3,~~ **IC 31-17-4, IC 31-17-6,** IC 31-19-16, IC 31-19-16.5, and
15 the juvenile law, means an attorney, a volunteer, or an employee of a
16 county program designated under IC 33-24-6-4 who is appointed by a
17 court to:

2005

IN 1717—LS 6747/DI 110+



C
o
p
y

- (1) represent and protect the best interests of a child; and
 - (2) provide the child with services requested by the court, including:
 - (A) researching;
 - (B) examining;
 - (C) advocating;
 - (D) facilitating; and
 - (E) monitoring;
- the child's situation.

A guardian ad litem who is not an attorney must complete the same court approved training program that is required for a court appointed special advocate under section 28 of this chapter.

SECTION 3. IC 31-14-10-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 4. Upon the request of a parent, custodian, or guardian under IC 31-17-6-1.5, a court shall appoint:**

- (1) a guardian ad litem;**
- (2) a court appointed special advocate; or**
- (3) both a guardian ad litem and court appointed special advocate;**

to represent and protect the best interests of a child.

SECTION 4. IC 31-14-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2. (a) If a guardian ad litem or court appointed special advocate reports that visitation is not in the best interests of a child under IC 31-17-6-1.5(c), upon a petition by a parent, custodian, or guardian, the court shall hold a hearing to determine whether an order granting visitation should be modified.**

(b) The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child.

SECTION 5. IC 31-15-6-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.5. (a) A court in a proceeding under this article shall advise a parent, custodian, or guardian that the parent, custodian, or guardian may request the court to appoint an individual listed in section 1 of this chapter for a child if:**

- (1) a report concerning the abuse or neglect of a child by a parent, custodian, or guardian has been classified as substantiated by a local child protection service under IC 31-33-8-12;**
- (2) criminal charges relating to the child abuse or neglect have**

C
o
p
y



not been filed; and

(3) a petition alleging that the child is a child in need of services:

(A) has not been filed; or

(B) was dismissed upon a motion by a person representing the interests of the state.

(b) If the parent, custodian, or guardian requests that an individual be appointed under subsection (a), the court shall appoint:

(1) a guardian ad litem;

(2) a court appointed special advocate; or

(3) both a guardian ad litem and court appointed special advocate;

for the child.

(c) A guardian ad litem or court appointed special advocate, or both, appointed under subsection (b):

(1) shall investigate and report to the court:

(A) whether visitation with a parent, custodian, or guardian may endanger the child's physical health or impair the child's emotional well-being; and

(B) whether visitation with a parent, custodian, or guardian would be in the best interests of the child; and

(2) shall be given access under IC 31-33-8-12.5 to:

(A) all reports relevant to the substantiated report of child abuse or neglect; and

(B) any reports of examinations of the child's parents or other person responsible for the child's welfare.

SECTION 6. IC 31-17-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) If a guardian ad litem or court appointed special advocate reports that visitation is not in the best interests of the child under IC 31-17-6-1.5(c), upon a petition by a parent, custodian, or guardian, the court shall hold a hearing to determine whether an order granting visitation should be modified.

(b) The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child. However, the court shall not restrict a parent's visitation rights unless the court finds that the visitation might endanger the child's physical health or significantly impair the child's emotional development.

SECTION 7. IC 31-17-6-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

C
o
p
y



1, 2005]: Sec. 1.5. (a) A court in a proceeding under IC 31-14-10, IC 31-14-13, IC 31-14-14, IC 31-17-2, or IC 31-17-4 shall advise a parent, custodian, or guardian that the parent, custodian, or guardian may request that the court appoint a guardian ad litem or a court appointed special advocate for a child if:

(1) a report concerning the abuse or neglect of a child by a parent, custodian, or guardian has been classified as substantiated by a local child protection service under IC 31-33-8-12;

(2) criminal charges relating to the child abuse or neglect have not been filed; and

(3) a petition alleging that the child is a child in need of services:

(A) has not been filed; or

(B) was dismissed upon a motion by a person representing the interests of the state.

(b) If the parent, custodian, or guardian requests that an individual be appointed under subsection (a), the court shall appoint:

(1) a guardian ad litem;

(2) a court appointed special advocate; or

(3) both a guardian ad litem and court appointed special advocate;

for the child.

(c) A guardian ad litem or court appointed special advocate, or both, appointed under subsection (b):

(1) shall investigate and report to the court:

(A) whether visitation with a parent, custodian, or guardian may endanger the child's physical health or impair the child's emotional well-being; and

(B) whether visitation with a parent, custodian, or guardian would be in the best interests of the child; and

(2) shall be given access under IC 31-33-8-12.5 to:

(A) all reports relevant to the substantiated report of child abuse or neglect; and

(B) any reports of examinations of the child's parents or other person responsible for the child's welfare.

SECTION 8. IC 31-17-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The court may order a guardian ad litem or court appointed special advocate appointed by a court under this chapter (or IC 31-1-11.5-28 before its repeal) to exercise continuing supervision over the child to assure that the

C
o
p
y



1 custodial or visitation terms of an order entered by the court under
 2 **IC 31-14-10, IC 31-14-13, IC 31-14-14, IC 31-17-2 or IC 31-17-4** (or
 3 IC 31-1-11.5 before its repeal) are carried out as required by the court.

4 **SECTION 9. IC 31-33-8-12 IS AMENDED TO READ AS**
 5 **FOLLOWS [EFFECTIVE JULY 1, 2005]:** Sec. 12. (a) Upon
 6 completion of an investigation, the local child protection service shall
 7 classify reports as substantiated, indicated, or unsubstantiated.

8 (b) Except as provided in subsection (c), a local child protection
 9 service shall expunge investigation records one (1) year after a report
 10 has been classified as indicated under subsection (a).

11 (c) If a local child protection service has:

12 (1) classified a report under subsection (a) as indicated; and

13 (2) not expunged the report under subsection (b);

14 and the subject of the report is the subject of a subsequent report, the
 15 one (1) year period in subsection (b) is tolled for one (1) year after the
 16 date of the subsequent report.

17 **(d) If a local child protection service classifies a report alleging**
 18 **child abuse or neglect against a parent, custodian, or guardian of**
 19 **a child as substantiated under subsection (a), the local child**
 20 **protection services shall notify any other parent, custodian, or**
 21 **guardian of the child that the report has been classified as**
 22 **substantiated.**

23 **SECTION 10. IC 31-33-8-12.5 IS ADDED TO THE INDIANA**
 24 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
 25 **[EFFECTIVE JULY 1, 2005]:** Sec. 12.5. (a) In a proceeding under
 26 **IC 31-14-10, IC 31-14-13, IC 31-14-14, IC 31-15, IC 31-17-2, and**
 27 **IC 31-17-4, a court may have access to a substantiated report of**
 28 **abuse or neglect by a parent, custodian, or guardian of a child.**

29 (b) A guardian ad litem or court appointed special advocate, or
 30 both, appointed under IC 31-15-6-1.5 or IC 31-17-6-1.5, may have
 31 access to:

32 (1) all reports relevant to a substantiated report of child abuse
 33 or neglect by a parent, custodian, or guardian of a child; and

34 (2) any reports of examinations of the child's parents or other
 35 person responsible for the child's welfare.

C
O
P
Y

